

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
REAL ESTATE COMMISSION

MEETING MINUTES

June 19 - 20, 2008

“These draft minutes were prepared by the staff of the Division of Corporations, Business and Professional Licensing. They have not been reviewed or approved by the Board.” By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Real Estate Commission was held June 19 – 20, 2008, at the Springhill Suites Marriott, Meeting Room, Fairbanks, AK.

Thursday, June 19, 2008

Agenda Item 1

Call To Order

Chairman Gene DuVal called the meeting to order at 9:03 a.m.

Roll Call

Members present constituting a quorum, were:

Brad Cole, Broker, 3rd Judicial District

F. Lee Sherman, Public Member

David B. Somers, Broker at Large, Vice Chairman

Gene DuVal, Associate Broker, 4th Judicial District, Chairman

Roger Stone, Broker, 1st Judicial District

Tim Worthen, Public Member

Christine Swires, Associate Broker at Large

Staff Present:

Sharon Walsh, Executive Administrator

Nancy Harris, Project Assistant

Guests Present:

Dave Feeken, Broker, Alaska Association of Realtors

Lori Schooley, Broker, Gold Standard Real Estate Referral

Guests Present via teleconference:

Margo Mandel, Investigator

Andrew Hemenway, Administrative Law Judge (ALJ) Office of Administrative Hearings (OAH)

Judge Stanley, ALJ OAH

Mark Davis, Director, Corporations, Business and Professional Licensing

Approval of Agenda

The Commission members reviewed and discussed the revised agenda.

**On a motion duly made by Stone, seconded by
Sherman, it was**

RESOLVED to approve the revised agenda.

All in favor; Motion passed.

Agenda Item 2

Approval of Minutes

March 13 & 14, 2008

Commission members reviewed the March 13 & 14, 2008 meeting minutes as presented.

Commission members noted some errors in the March 13 & 14, 2008 meeting minutes:

Page 9 – update online licensees. Was there a motion made regarding the time period of 30 days for these individuals to take another hour of education.

Page 13 -16, grammatical errors, corrections given to Executive Administrator, Sharon Walsh, see attachment.

Page 18 – regarding the property disclosure form, “human” was not what the Commission added to question #31.

On a motion duly made by Worthen, seconded by Sherman, it was

RESOLVED to approve the March 13 & 14, 2008 meeting minutes as amended.

All in favor. Motion passed.

April 17, 2008-Teleconference

Commission members reviewed the April 17, 2008 teleconference meeting minutes.

Commission member Cole asked for clarification from page 2 second paragraph. Was that what the Commission said that licensee’s had, 15 days to turn in the certificate? That was to turn in the certificate not to complete it? He said the minutes did not indicate that the education had to be already completed and that is what he understood was discussed at the last meeting. The education would have to have been completed.

Ms. Walsh said that licensees would be required to turn in their Post Licensing Education (PLE) certificates within the specific time period indicated on their license per AS 08.88.095.

Commission members discussed the implementation of the blue color certificate signaling to the broker and licensee that PLE has to be completed in hopes to lessen the confusion of PLE.

Ms. Walsh explained to the Commission that when PLE is completed the licensee must turn in a PLE affidavit, copies of all PLE certificates and the \$30.00 fee.

The fifteen day allotment was only for a short period of time until the different color license for PLE licensees was implemented.

On a motion duly made by Stone, seconded by Worthen, it was

RESOLVED to approve the April 17, 2008 teleconference meeting minutes as presented.

All in favor. Motion passed.

Agenda Item 3

Public Comment

Lori Schooley, Broker with Gold Standard Referral office, brought her concern to the Commission regarding the difficulty in finding the time and location of the Commission meeting. She asked that the meeting notification/information be better available for the public.

Ms. Schooley also spoke regarding PLE and said there was a lot of confusion among her licensees between continuing education and post licensing education. The blue license does help with the confusion with PLE.

David Feeken, a Broker with RE/MAX of the Peninsula, attending on behalf of the Alaska Association, gave an update on the E & O bill, HB 357. Mr. Feeken said that HB 357 will be signed by the Governor next week. He urged the Commission to start the regulation process because they will need to be reviewed by the Department of Insurance and the Department of Law.

The Commission members asked staff to gather copies from other states E & O regulations for review at the next meeting or a possible teleconference so that they can get the process started.

Discussion of FSBO and Consumer Pamphlet/ licensee relationships
Commission members discussed the AREC form issue in regards to how do For Sale By Owner's (FSBO) show relationship and are they required to sign the Consumer Pamphlet?

The Commission asked for a best practice letter to be written to let licensees know that the prudent thing to do is to give the individual

the pamphlet when you open the door and get the pamphlet signed every time you deal with a For Sale By Owner, in reference to AS 08.88.615(6), AS 08.88.695(8) and 12 AAC 64.118. Commission member Cole agreed to write a best practices article in the AAR newsletter to address these issues with FSBO.

Licensees Use of Advertising - #1

Commission members discussed the Wallace, Wallace and Wakefield moving van advertisement that reads: "Buy or sell a home with us ... this truck for free." The question was is this advertisement within statute and regulations?

The Commission directed staff to write a letter to the Wallace, Wallace and Wakefield office asking them to correct the advertisement and to show the Commission that the advertisement has been corrected within 60 days from receipt of letter.

Licensees Use of Advertising - #2

The Commission members discussed the second advertisement from Robert Fox Realty that reads: "...When you close a transaction with us we will make a donation (\$100 for Residential/Commercial or \$25 for land sales) to a non profit organization of your choice that benefits our community and our families...". Is this an inducement?

The Commission recessed for break at 10:26 a.m.

The Commission reconvened from break at 10:36 a.m.

Chair DuVal introduced and welcomed the new Commission member Chris Swires.

Agenda Item 4

Public Comment

Oral Testimony on 12 AAC 64.580 Licensee who performs Community Association

There were no individuals for public comment.

The Commission members reviewed and discussed the written public comment on proposed regulation 12 AAC 64. 580- Licensee who performs Community Association.

On a motion duly made by Stone, seconded by Sherman, it was

**RESOLVED to close the public comment for
12 AAC 64.580 Licensee Who Performs
Community Association Management.**

All in favor. Motion passed.

**Agenda Item 3
Cont'd**

Licensees Use of Advertising - #2

Commission members continued to discuss the Robert Fox Realty advertisement. Members asked the questions:

- Is this advertisement an inducement?
- Is it tied to the transaction?

Commission members directed staff to send a letter to Robert Fox Realty saying that although we appreciate your non profit contributions, unfortunately the law does not allow a direct relationship between the transaction and your non profit.

Commission members directed staff to look at past newsletters for information regarding the limit of the dollar amount of a gift that a licensee can give a client after closing.

The Chair DuVal asked Commission members if they would be interested in working on a regulation that would clarify the gift amount that a licensee can give a client after closing.

Commission members discussed inducements, and client gifts and if they should create a possible regulation to clarify these issues. They agreed that there is a clear violation when it is inducement. The Commission members decided not to pursue a regulation clarifying client gift amounts at this time.

Commission member Somers asked to bring two items to the Commission.

- Advertisement of real estate licensees in the yellow pages. It is a violation when the company name is not included in the advertisement. This is what is happening in Fairbanks and other areas.

The Commission members directed staff to look into the yellow pages advertisement issue regarding listing of names of licensees without the brokerage name being included.

Commission member Cole said there was also a problem with Craig's list and advertisements not including the licensee's office.

Commission members directed staff to do a Best Practice for the web site regarding when a licensee sits down with a client to let the client know that if they advertise their property and they are using a real estate licensee they must include the licensee's office name per the regulation.

Commission directed staff to write a form letter to Brokers saying that

this is something that is happening and to make sure your licensee's advertisements are within the law.

The second item Mr. Somers wanted to clarify with the Commission is the issue of electronic storage of records. Is this allowable? Yes, as long as you can produce the files upon the request of the Commission. The same as with hard copies as referenced in as 08.88.351(a)(5) & (b)(3).

Agenda Item 5 Regulation Specialist Update

Regulation Tracker

Ms. Harris presented the Regulation Tracker to the Commission for an update on the regulations that are pending.

The Commission members reviewed and discussed the regulation tracker as presented.

Ms. Harris informed the Commission that regulations 12 AAC 64.059(d)(5)-Review of License Application, 12 AAC 64.063(a)(3)-Minimum Education Requirements, 12 AAC 34.420(g)-Application for Course Certification, 12 AAC 64.440(c)(d)(f)(B –C)- Instructor Approval, 12 AAC 64.075(b)-Employment & Transfer, 12 AAC 64.115(3) Minimum Requirements for Maintaining a Office were signed by the Lt. Governor on May 23, 2008 and will be effective on June 22, 2008.

The only regulation that is still pending is the 12 AAC 64.930-Residential Real Property Disclosure Transfer Disclosure Statement.

Update on Residential Real Property Transfer Disclosure Statement

Ms. Walsh gave the Commission an update on the pending regulation 12 AAC 64. 930; Residential Real Property Transfer Disclosure Statement. It was sent to the Department of Law on May 23, 2008 for review and will come in front of the Commission for final adoption.

When notified by Department of Law that regulation 12 AAC 64.930 is ready for the Commission's final review, the Commission agreed to have a teleconference to finalize it. If the regulation is still at Department of Law within the next few weeks the Commission directed Ms. Walsh to ask the Director to check with Department of Law on the status.

Agenda Item 4 Cont'd

Adoption of Regulation 12 AAC 64.580 Licensee Who Performs Community Association

Commission members reviewed and discussed the proposed regulation 12 AAC 64.580 Licensee Who Performs Community Association

Management.

On a motion duly made by Stone, seconded by Sherman, it was

RESOLVED to adopt 12 AAC 64.580 Licensee Who Performs Community Association Management as is defined in packet.

All in favor. Motion passed.

On a motion duly made by Stone, seconded by DuVal, it was

RESOLVED to enter into executive session in accordance with AS 44.62.310(c)(2) to discuss investigations.

All in favor. Motion passed.

Commission members move to executive session at 11:43 a.m.
Commission members reconvened from executive session at 12:30 p.m.

The Commission recessed for lunch at 12:30 p.m.
The Commission reconvened from lunch at 1:30 p.m.

Agenda Item 6

Surety Fund Claims
S-28-003 (07-0581-REC) DuBoise v. Dowd

On a motion duly made by Stone, seconded by Worthen, it was

RESOLVED to adopt surety fund case S-28-003 (07-0581-REC) DuBoise v. Dowd.

All in favor. Motion passed.

S-27-011(07-2671-REC) Henry v. Johnson

On a motion duly made by Worthen, seconded by Stone,

it was

**RESOLVED to a enter into executive session in
accordance with AS 44.62.310(c)(2).**

All in favor. Motion passed.

Commission members move to executive session at 1:38 p.m.
Commission members reconvened from executive session at 1:43 p.m.

**On a motion duly made by Somers, seconded by Stone, it
was**

**RESOLVED to adopt surety fund case S-27-011
(07-0267-REC) Henry v. Johnson.**

All in favor. Motion passed.

Agenda Item 7

Education Report

Education Statistics

Ms. Harris presented to the Commission the education statistics for the last quarter.

The approved education courses as of June 4, 2008 were:
6 pre licensing, 6 broker upgrade, 162 elective continuing education,
22 designated continuing education, and 37 post licensing education
courses.

There were 38 sponsors and 48 approved instructors as of June 4,
2008.

Jay Evenson – Instructor Issue

Ms. Harris brought an instructor issue to the Commission for their reconsideration that was previously discussed at the April 17, 2008 teleconference. An instructor, J. Evenson was first approved as an instructor on October 4, 2004 with an expiration date of 03/31/2006. He then renewed his instructor certification April 1, 2008 with an expiration date of March 31, 2010. Mr. Evenson failed to renew his instructor's certification for the April 1, 2006 through March 31, 2008. The Commission was waiting for Mr. Evenson to return from vacation to verify if he had been approved as an instructor for the 2006-2008 period. Mr. Evenson did not find an approval letter as an instructor for the 2006-2008 renewal period. However, Mr. Evenson did teach

course #2147, Carpenter Ants, during that renewal period and many licensees have taken this course to meet their continuing education requirements. What is the penalty for an individual who taught but was not an approved instructor?

The Commission members discussed what the penalty should be for a non approved instructor who taught courses.

On a motion duly made by Somers, seconded by Stone, it was

RESOLVED to charge \$50.00 that he had failed to pay to renew plus the amount of the renewal fee, \$50.00, for a total of \$100.00.

All in favor. Motion passed.

Lisa Falon – Course Issue

Ms. Harris brought the issue of Ms. Falon before the Commission for their reconsideration. This issue was also discussed at the April 17, 2008 teleconference. Ms. Falon, a certified instructor, had taught a course for 2 elective hours when the course was only approved for 1 hour. The Commission requested that staff speak with Ms. Falon and ask her what had happened. Ms. Harris spoke with Ms. Falon and she said that she was asked to teach the course by Prudential Jack White/Vista Real Estate and they set everything up including the certificates. She believes the course was advertised incorrectly but says it was not intentional. She apologized and said in the future she will personally make sure everything is approved before she teaches a course.

Commission members discussed the issue as presented. Commission asked staff to send out an acknowledgement letter to all instructors stating what the statutes and regulations are regarding course requirements and approval.

On a motion duly made by Cole, seconded by Somers, it was

RESOLVED that staff send a letter of acknowledgement to all instructors to let them know that they should take the responsibility to ensure that the classes they are teaching are approved to the credit hours they are given and

that the certificates reflect the correct hours. While in this particular case we did not feel that there was any intentional tort. There was not a penalty in this case but there could be one in the future. Please be careful in the future to ensure that your student's licensees are not in jeopardy.

All in favor. Motion passed.

Agenda Item 8

Licensing Examiner's Report
Statistical Report

Ms. Harris presented the statistical report to the Commission for the period of February 28 through June 4, 2008 for their review.

There were 33 new licensees, 2344 active licensees, and 2411 total number of licensees with a January 31, 2010 expiration date. There are 474 active brokers, 428 active associate brokers, and 1504 active salespeople.

Commission asked if staff could track licensees that drop their license within the first year and then reinstate and those that never return. They would be interested in those numbers.

Ms. Harris also presented graphs of the licensing statistics as requested from the Commission for active, AWOL, lapsed, and inactive licensees from 2003 to the present.

Commission members reviewed the licensing statistics and graphs as presented. They agreed that they would like to continue to receive the licensing statistics in a graph form for future meetings.

On a motion duly made by Somers, seconded by Sherman, it was

RESOLVED to accept the Licensing Examiner's Report as presented.

All in favor. Motion passed.

Licensing Issues
C.Morris

Ms. Harris presented to the Commission a salesperson application for Cherie Morris who answered "yes" to personal screening question #1, for their approval.

On a motion duly made by Somers, seconded by Cole, it was

RESOLVED to approve Cherie Morris' licensing application.

All in favor. Motion passed.

Agenda Item 10 Assistant Attorney General

Ms. Horetski, the Assistant Attorney General for the Division, spoke with the Commission at their request. The Commission had a few questions for Ms. Horetski that they wanted clarification on.

The Commission asked Ms. Horetski: When there is a complaint with a possible violation at what time does a Commission member recuse him or herself from a hearing?

Ms. Horetski recommended that the Commission have the Assistant Attorney General, Judy Bockmon give a presentation at the next meeting for an overview of the Executive Branch Ethics Act and the 2007 amendments. She also recommended the Commission members have a copy of the Executive Branch Ethics Act- AS 39.52 and the Administrative Procedures Act - AS 44.62 for a reference during Ms. Bockmon's presentation.

Ms. Horetski gave the Commission members relevant statutes that they may want to review pertaining to actions of boards and commissions and their questions.

- AS 39.52 -Alaska Executive Branch Ethics Act
 - AS 39.52.960 – definitions
 - Financial interest
 - Personal interest
 - AS 39.52.110 – Scope of Conduct
 - Personal/financial interest
 - AS 39.52.120 – Misuse of Official Position
 - AS 39.52.130 – Improper Gifts

Ms. Horetski answered the Commission's question referencing at what time should a Commission member recuse themselves in a hearing.

- AS 39.52.210- Declaration of potential violations by public employees
- Refrain from taking any official action relating to the matter until a determination is made
 - Immediately disclose the matter in writing to the designated supervisor and the attorney general
 - Designated supervisor shall make a written

determination whether the employee's involvement violates AS 39.52.110 – 39.52.190 and shall provide a copy of the written determination to the public employee and the attorney general.

Ms. Horetski, also referenced statutes:

- AS 39.52.220 - Declaration of potential violations by members of boards and commissions
- AS 39.52.240 – Advisory Opinions
 - AS 39.52.240(d) – A public officer is not liable under this chapter for any action carried out in accordance with a determination made under AS 39.52.210 – 39.52.240 if the officer fully disclosed all relevant facts reasonably necessary to the determination.

Mr. Sherman asked Ms. Horetski if an individual tells a Commission member of a possible violation and the member forwards that information to the investigator then it comes in front of the Commission for consideration does that member need to recuse himself/herself?

Ms. Horetski urged the Commission members to have the individual who spoke to the Commission member to turn over the complaint to the investigator and let the process go forward. She said if the Commission member forwards the information to the investigator and the information the Commission member had is minimal then they may not have to recuse themselves. She referenced Administrative Procedures Act

- AS 44.62.450 (c) –A hearing officer or agency member shall voluntarily seek disqualification and withdraw from a case in which the hearing officer or agency member cannot afford a **fair and impartial hearing or consideration.**

Ms. Horetski said that if a Commission member “cannot afford a fair and impartial hearing or consideration” then that member should recuse themselves. However, if that would prevent an existence of a quorum then they could not recuse themselves for that case because the Commission is the only jury.

The question was asked to Ms. Horetski: When investigator's give the Commission a general report can they get a history and more information regarding that case?

Ms. Horetski said there is a deliberate “sanitizing” of the reporting process so that the investigator can inform the boards of the statistics of investigations so not to taint the jury pool. Once cases are closed or

an accusation is filed then the board can see their role in the process.

The Commission asked if a Commission member gains information of a case can they pass that information on to the investigator to add to the process?

Ms. Horetski said no, the Commission member can inform the investigator and they will do a report and add them to a witness list and then the member will have to recuse themselves when that case comes before them for consideration.

The Commission recessed for break at 3:07 p.m.
The Commission reconvened from break at 3:17 p.m.

Agenda Item 12

Executive Administrator's Report

Surety Fund Tracker

Ms. Walsh presented the surety fund tracker for FY07 and FY08 to the Commission for their review.

Commission members reviewed and discuss the surety fund tracker as presented.

Surety Fund Balance Report

Ms. Walsh presented to the Commission the Surety Fund Balance Report as June 10, 2008 for their review.

The Commission members reviewed and discussed the Surety Fund Balance Report as presented.

Revenue & Expenditure Report

Ms. Walsh presented the Revenue & Expenditure Report to the Commission for their review.

The Commission members reviewed and discussed the Revenue & Expenditure Report as presented.

On a motion duly made by Somers, seconded by Sherman, it was

RESOLVED to accept Executive Administrator's Report.

All in favor. Motion passed.

Agenda Item 11

Mark Davis, Director of Corporations, Business and Professional Licensing

On a motion duly made by Worthen, seconded by Sherman, it was

RESOLVED to a enter into executive session in accordance with AS 44.62.310(c)(1) for the purpose of speaking with the Director of Corporation Business and Professional Licensing.

All in favor. Motion passed.

Commission members move to executive session at 3:35 p.m.
Commission members reconvened from executive session at 4:20 p.m.

Agenda Item 8

Investigator's Report

Statistics

Ms. Mandel presented her statistical report to the Commission for the reporting period of February 27 through May 28, 2008 for their consideration.

The Commission members reviewed and discussed the investigation report as presented.

On a motion duly made by Somers, seconded by Sherman, it was

RESOLVED to accept the Investigator's Report as presented.

All in favor. Motion passed.

Omnibus Legislation Overview

Ms. Mandel gave an overview to the Commission of the Omnibus Legislation that will be presented to the Legislature in the next legislative session. She said the bill is a stream lining of statutes to place all occupations under one umbrella, as far as having more consistent disciplinary procedures and to close some statutory loopholes. It will also give individual boards more room to address specific issues within their boards. She said so far the language has been divided into two different areas: 1) language that will provide for a more uniform statute with regards to disciplinary actions and fines and 2) language that will give boards the authority, if they want it, to

establish certain regulations specific to their board, such as fingerprinting. The bill is written and is being reviewed by the Director and the Department of Law. Ms. Mandel said that the Mortgage Lending Act will be effective on July 1, 2008 which is under the Division of Banking and Securities* and some of those issues will cross over into real estate. Ms. Mandel said that one thing that was implemented into the mortgage bill was bringing RESPA violations under state authority so the investigation unit may see more cases dealing with mortgage fraud, RESPA violations, and those types of issues. Ms. Mandel said she has been asked by the Director to assist in some security fraud investigations so she will be transitioning out of real estate although she will still be involved in those real estate cases that are pending and may go to hearing or trial.

**Note: Ms. Mandel's statement is not correct. The Mortgage Lending Act falls under Corporations, Business and Professional Licensing's new section of Consumer Affairs & Investigations.*

The Commission thanked Ms. Mandel and wished her well in her future endeavors.

Agenda Item 14

Old Business

Licensees Required to Hold a Business License

A question arose during this legislative session if real estate licensees are required to have a business license. At the last meeting it was determined through the Assistant Attorney General Jena Conley that all licensees who are independent contractors must have a business license. There have been a lot of calls regarding this issue to confirm that real estate licensees do indeed need a business license. There was then a second opinion by the Assistant Attorney General, Gayle Horetski, that all real estate licensees that are independent contractors are required to have a business license. The enforcement of the business license statutes is not within the Real Estate Commission's purview but until the business license statute changes all licensees that are independent contractors must have a business license.

Agenda Item 13

New Business- Proposed Regulations

Review the Draft of Future Regulations

Offices- 12 AAC 64.110

Commission members reviewed and discussed the issue regarding offices. There has been some confusion with regard to home and branch offices and this proposed regulation should clarify this issue.

On a motion duly made by Somers,

seconded by Cole, it was

RESOLVED to accept the language as amended for proposed regulation 12 AAC 64.110 Offices. The subsets of 12 AAC 64.115 move over to 12 AAC 110, therefore abrogate 12 AAC 64.115 and moving item (1) and (2) under 12 AAC 64.110.

All in favor. Motion passed.

Branch Offices- 12 AAC 64.120

Commission members reviewed and discussed proposed regulation 12 AAC 64.120 Branch Offices. No fine tuning, this regulation will stay as is.

New Regulation - 12 AAC 64.128 – Home Offices

Commission members reviewed and discussed the new regulation 12 AAC 64.128 – Home Offices

12 AAC 64.128 – Home Offices

- (a) Licensees conducting business out of a home office must comply with supervision requirements of 12 AAC 64.125
- (b) A home office may not give the appearance or impression of being a principal office or branch office
- (c) A home office may not display ~~not display~~ a sign showing the name of their real estate business at ~~the entrance~~ their home office.
- (d) A home office may not use the address of the home office in any form of advertising, business letterhead or business cards; the address of the principal or branch office which the licensee operates **from** must be used.

Commission members amended the new regulation as follows:

- re-letter sentences, a, b, c, d.
- in (c), the words “not display” is in the sentence twice, delete one of the words “not display”.
- in (c), second sentence, delete the words “the entrance”.
- in (d), third sentence, after the word “operates” add the word “from”.

On a motion duly made by Stone, seconded by Somers, was

RESOLVED to adopt the new regulation section 12 AAC 64.128 Home Offices, as amended.

All in favor. Motion passed.

E & O Insurance

Ms. Walsh asked the Commission members to request from the Division, the Procurement Manager, Ted Bradley, to set up insurance bids for E & O, to get that process started.

On a motion duly made by Stone, seconded by Somers, was to

RESOLVED to request the Procurement Manager Ted Bradley to set up insurance bids for the E & O insurance.

All in favor. Motion passed.

ARELLO

Ms. Walsh asked the Commission members for their consideration of allowing her to attend the annual ARELLO conference in October to be held in Indiana.

On a motion duly made by Stone, seconded by Somers, was to

RESOLVED sponsor Ms. Walsh to attend the ARELLO conference.

All in favor. Motion passed.

The Chair asked members to review the exemptions section of the statutes AS 08.88.900, page 19 and 20, to better tackle the regulations at tomorrow's meeting regarding the definition of incidental and vocational.

The Commission recessed at 5:03 p.m. until June 20, 2008 at 9:00 a.m.

Friday, June 20, 2008

Agenda Item 1

Call To Order

Chairman Gene DuVal called the meeting to order at 9:00 a.m.

Roll Call

Members present constituting a quorum, were:

Brad Cole, Broker, 3rd Judicial District
F. Lee Sherman, Public Member
Gene DuVal, Associate Broker, 4th Judicial District, Chairman
David B. Somers, Broker at Large, Vice Chairman
Roger Stone, Broker, 1st Judicial District
Tim Worthen, Public Member
Christina Swires, Associate Broker at Large

Staff Present:

Sharon Walsh, Executive Administrator
Nancy Harris, Project Assistant

Guests Present:

Dave Feeken, Broker, Alaska Association of Realtors
Lori Schooley, Broker, Gold Standard Real Estate Referral

Guests Present via Teleconference:

Mark Davis, Director, Corporations, Business and Professional
Licensing

Agenda Item 12

New Business

HB 357

Commission members reviewed and discussed HB 357 the bill that would require real estate licensees to carry Errors & Omissions insurance.

The Chair thanked Mr. Feeken for all his work on HB 357. They also thanked Joe Hayes and Wendy Chamberlin for their work on HB 357.

HB 413

HB 413 will be signed on June 27, 2008 in Soldotna. Commission members reviewed and discussed HB 413, the bill that will extend the Real Estate Commission for eight years.

Ms. Walsh went over the talking points of the signing of HB 357 & HB 413.

HB 357- requiring Errors and Omissions insurance for real estate licensees, changes the surety fund to a recovery fund and requires a broker to maintain a place of business in the state.

HB413 – this legislation extends the Real Estate Commission for eight years until 2016. The Commission is tasked with oversight of all real estate licensees in Alaska.

Agenda Item 2

Public Comment

There were no individuals for public comment.

**Agenda Item 13
Cont'd**

New Business

Regulations for Real Estate Exam – 12 AAC 64.010(d)

Commission members reviewed and discussed the new regulation 12 AAC 64.010(d) Examination.

On a motion duly made by Somers, seconded by Cole, it was

RESOLVED to accept the proposed regulation as identified as #2, [12 AAC 64.010(d)], as written.

All in favor. Motion passed.

Commission member Somers asked that once the agenda is sent out that it would not be changed. He asked that the supplemental information be put in a separate folder or at the end. He said it becomes too confusing during the meeting to find the supplemental information and put it in the correct tab.

Ms. Walsh agreed and will assure that staff has this corrected for the next meeting.

Disclosure of Compensation- 12 AAC 64.940

Commission members reviewed and discussed the proposed regulation 12 AAC 64.940, Disclosure of Compensation.

On a motion duly made by Somers, seconded by Cole, it was

RESOLVED to adopt the proposed regulation change of 12 AAC 64.940 as reads in the proposed language with the addition: after “the dollar amount” add “or percentage of transaction amount”.

All in favor. Motion passed.

Ms. Walsh made clear for the record the corrections for regulation 12 AAC 64.940, under section (b) a space will be added after the word “require” and second sentence in same section the letter “e” will be added to the word license.

Commission members agreed to the corrections mentioned.

Incidental v. Vocational – 12 AAC 64.990

Commission members reviewed and discussed the proposed regulation 12 AAC 64.990 - Definitions.

Commission members reviewed the statute AS 08.88.900 – Exceptions and discussed the definitions of incidental.

Commission member Somers gave the Commission a quick history of the exceptions item #9.

Commission recessed for break at 10:20 a.m.
Commission reconvened from break at 10:28 a.m.

Commission members continued to discuss issue of incidental v. vocational.

Commission members reviewed and discussed a fax from Mr. Davis that outlined, in generalities only, a case where it was determined that an individual's job activities fell within the exceptions.

Ms. Harris reads regulation 12 AAC 64.990, Incidental v. Vocational as proposed:

Incidental for the purpose of AS 08.88.900(9) defined as a person performing no more than 4 instances of activities requiring a real estate license as defined in AS 08.88.161 within 1 calendar year.

Ms. Harris reads regulation 12 AAC 64.990, exceptions:
Exceptions in AS 08.88.900, are defined as being limited to only those activities as specifically described in each of those exceptions.

On a motion duly made by Stone, seconded by Somers, it was

RESOLVED to accept the proposed regulation as read.

All in favor. Motion passed.

Commission members agreed that they would like to discuss a possible regulation to clarify AS 08.88.331, Making of Transactions, at the next meeting.

Commission members asked that the next meeting be at the Grandview Hotel in Wasilla.

On a motion duly made by Somers, seconded by Cole, it was

RESOLVED to adjourn the meeting.

All in favor. Motion passed.

Meeting adjourned at 11:15 p.m.

Next meeting is September 2008 in Wasilla.

Prepared and submitted by Division Staff,

Approved:

Gene DuVal, Chairperson
Real Estate Commission

Date: _____